

BIGIE LEE RHEA,
Plaintiff,
vs.
APACHE CORPORATION,
Defendant.

In an effort to resolve a long and contentious discovery dispute, the court referred to U. S. Magistrate Judge Kimberly West, for report and recommendation, plaintiff's motion [Doc. #152] seeking contempt sanctions against non-parties Enable Gas Gathering, LLC, Enable Midstream Partners, LP, and Enable Gathering & Processing, LLC (collectively, "Enable"). The motion was based on Enable's non-compliance with Judge Seay's September 2, 2016 order [Doc. #124], which ordered, with minor modifications, production of documents consistent with an earlier order entered by Judge West [Doc. #96]. Judge West has now submitted a report and recommendation concluding that Enable has not complied with the prior orders in various respects, that there is no persuasive reason why its compliance should not be required, and that a coercive fine, via a finding of civil contempt, is appropriate in light of Enable's non-compliance.

Enable has objected to the report, essentially re-urging the various arguments already presented to Judge West and Judge Seay. Enable has also moved for a further hearing before the undersigned.

The court concludes Enable's objection does not present a persuasive basis for reconsidering or modifying the prior order entered by Judge Seay, and that an additional hearing is unnecessary to resolve a matter that has already been exhaustively argued, briefed, and fought over. Moreover, in light of the flat refusal of Enable to comply with this court's orders, the court also concludes the punitive sanction proposed in the report is appropriate.

Accordingly, for substantially the reasons stated in the report, the Report and Recommendation [Doc. #284] is **ADOPTED**. The court concludes Enable is in civil contempt of the orders of this court and directs that it pay a fine of One Thousand Dollars (\$1,000) per day, beginning upon the date of entry of this order and ending upon full compliance with the pertinent discovery orders. Enable's motion for hearing [Doc. #285] is **DENIED**.

IT IS SO ORDERED.

Dated this 7th day of December, 2018.



JOE HEATON
U.S. DISTRICT JUDGE